

REMARKS

In an Office Action dated July 14, 2003 (paper no. 8), the Examiner rejected claims 1-4, 7, 8, and 10-14 under 35 U.S.C. §103(a) as being unpatentable over Yu (U.S. patent no. 6,078,943) in view of Goldszmidt et al. (U.S. patent no. 6,424,992, hereinafter referred to as "Goldszmidt") and further in view of Devarakonda (U.S. patent no. 6,195,680). The Examiner rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Goldszmidt and Devarakonda and further in view of Adelman et al. (U.S. patent no. 6,006,259). The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Goldszmidt and Devarakonda and further in view of Artanasio et al. (U.S. patent no. 5,918,017) and Fine (U.S. patent no. 4,894,846). The Examiner rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Goldszmidt and Devarakonda and further in view of the applicants' admitted prior art. The rejections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 1-4, 7, 8, and 10-14 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Smith. Specifically, with respect to claim 1, the Examiner stated that Yu teaches a communication system network having multiple servers (FIG. 1, ref. nos. 54), each of the servers having a load level based on serving a number of clients in the communication system network (col. 1, lines 10-11), the method including steps of grouping the multiple servers into a first server group (col. 4, lines 52-53), wherein the first server group or has load level less than a load level of the second server group (col. 3, lines 53-55), calculating a time period T (col. 3, line 1), assigning load to a server selected from servers in the first server group from an initial time until expiration of the time period T (col. 2, lines 58-60).

The Examiner acknowledged that Yu does not teach grouping the multiple servers into a first server group and a second server group. However, the Examiner contended that Goldszmidt teaches grouping multiple servers into a first server group and a second server group (Abstract and FIG. 1B) and that it would have been obvious to one of ordinary skill in the art to modify Yu by grouping the multiple servers into first and

second server groups because there would be a group of servers to handle various load levels. The Examiner then acknowledged that Yu and Goldszmidt combined do not teach assigning a load to a server after time T. However, Examiner contended that Devarakonda teaches assigning load to a server selected from servers in the first and second server groups after expiration of the time period T (col. 2, lines 52-57).

The applicants respectfully disagree with the Examiner's interpretation of Yu, Goldszmidt, and Devarakonda. As acknowledged by the Examiner, nowhere does Yu teach the limitations of claim 1 of grouping multiple servers into multiple groups of servers, that is, into a first server group and a second server group. The Examiner then contended that Goldszmidt teaches grouping multiple servers into a first server group and a second server group (Abstract and FIG. 1B) and that it would have been obvious to one of ordinary skill in the art to modify Yu in light of Goldszmidt by grouping the multiple servers into first and second server groups wherein, pursuant to Yu, the first server group has load level less than a load level of the second server group. However, Yu cannot possibly teach this since Yu does not teach multiple groups of servers.

Goldszmidt merely teaches a redundant system of servers comprising a first group of primary servers and a second group of redundant servers, wherein a client/receiver may switch to the second group of servers when receiving a data stream and detecting a failure or overload of the primary server. That is, the second group of servers is merely backup for the first group of servers. Nowhere does Goldszmidt teach the limitations of claim 1 of grouping multiple servers into a first server group and a second server group, wherein the first server group has load level less than a load level of the second server group. Claim 1 teaches a novel load balancing algorithm utilizing both a first and a second set of servers. By contrast, Goldszmidt merely teaches using a conventional load balancing algorithm to distribute load among a first, primary set of servers, and using the second set of servers as backup in the event of primary server failure.

Devarakonda teaches only a single group, or cluster, of servers (500) and a method for routing client requests among the cluster of servers. The section of Devarakonda cited by the Examiner (col. 2, lines 52-57) is merely a review of a round robin load balancing system of the prior art, wherein all received client requests are

directed to a single group of servers during each predetermined time period and upon expiration of each such predetermined time period are directed to a next group of servers. Nowhere does Devarakonda teach the limitations of claim 1 of assigning load to a server selected from servers in the first server groups from an initial time until expiration of the time period T and assigning load to a server selected from servers in the first and second server groups after expiration of the time period T.

Therefore, none of Yu, Goldszmidt, or, Devarakonda, individually or in combination, teach the limitations of claim 1 of grouping multiple servers into first and second server groups, wherein the first server group has load level less than load level of the second server group, assigning load to a server selected from servers in the first server group from an initial time until expiration to the time period T, and assigning load to a server selected from servers in the first and second server groups after expiration of the time period T. Accordingly, the applicants respectfully request that claim 1 may now be passed to allowance.

Each of claims 2-4 includes limitations of grouping multiple servers into multiple server groups, wherein each server group has load level different than the load level of the other server groups, calculating multiple time periods, assigning load to a server selected from a first server group of the multiple server groups in a first time period, and assigning load to a server selected from the first server group or another server group of the multiple server groups in a subsequent time period. As noted above, none of these limitations are taught by any of Yu, Goldszmidt, or, Devarakonda, individually or in combination. Accordingly, the applicants respectfully request that claims 2-4 may now be passed to allowance.

Since claims 5-14 depend upon allowable claim 4, the applicants respectfully request that claims 5-14 may now be passed to allowance.

As the applicants have overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants

respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,

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